

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Orlando Garcia,

Plaintiff,

v.

2002 INVESTORS, LLC., a
California Limited Liability
Company;

Defendants,

Case No.

**Complaint For Damages And
Injunctive Relief For
Violations Of:** Americans With
Disabilities Act; Unruh Civil
Rights Act

Plaintiff Orlando Garcia complains of 2002 INVESTORS, LLC., a
California Corporation and Does 1-10 ("Defendants"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He suffers from cerebral palsy. He has the use of only one arm. He uses a wheelchair, walker, or cane for mobility.

2. Defendant 2002 INVESTORS, LLC. owns and operates the Roy Inn & Suites – Sacramento Midtown, 1319 30th St., Sacramento, California, currently and at all times relevant to this complaint.

1 3. Plaintiff does not know the true names of Defendants, their business
2 capacities, their ownership connection to the property and business, or their
3 relative responsibilities in causing the access violations herein complained of,
4 and alleges a joint venture and common enterprise by all such Defendants.
5 Plaintiff is informed and believes that each of the Defendants herein,
6 including Does 1 through 10, inclusive, is responsible in some capacity for the
7 events herein alleged, or is a necessary party for obtaining appropriate relief.
8 Plaintiff will seek leave to amend when the true names, capacities,
9 connections, and responsibilities of the Defendants and Does 1 through 10,
10 inclusive, are ascertained.

11 **JURISDICTION:**

12 4. The Court has subject matter jurisdiction over the action pursuant to 28
13 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
14 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

15 5. Pursuant to supplemental jurisdiction, an attendant and related cause
16 of action, arising from the same nucleus of operative facts and arising out of
17 the same transactions, is also brought under California's Unruh Civil Rights
18 Act, which act expressly incorporates the Americans with Disabilities Act.

19 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
20 founded on the fact that the real property which is the subject of this action is
21 located in this district and that Plaintiff's cause of action arose in this district.

22 **PRELIMINARY STATEMENT**

23 7. This is a lawsuit challenging the reservation policies and practices of a
24 place of lodging. Plaintiff does not know if any physical or architectural
25 barriers exist at the hotel and, therefore, is not claiming that that the hotel has
26 violated any construction-related accessibility standard. Instead, this is about
27 the lack of information provided on the hotel's reservation website that would
28 permit plaintiff to determine if there are rooms that would work for him.

1 8. After decades of research and findings, Congress found that there was
2 a “serious and pervasive social problem” in America: the “discriminatory
3 effects” of communication barriers to persons with disability. The data was
4 clear and embarrassing. Persons with disabilities were unable to “fully
5 participate in all aspects of society,” occupying “an inferior status in our
6 society,” often for no other reason than businesses, including hotels and
7 motels, failed to provide information to disabled travelers. Thus, Congress
8 decided “to invoke the sweep of congressional authority” and issue a “national
9 mandate for the elimination of discrimination against individuals with
10 disabilities,” and to finally ensure that persons with disabilities have “equality
11 of opportunity, full participation, independent living” and self-sufficiency.

12 9. As part of that effort, Congress passed detailed and comprehensive
13 regulations about the design of hotels and motels. But, as importantly,
14 Congress recognized that the physical accessibility of a hotel or motel means
15 little if the 61 million adults living in America with disabilities are unable to
16 determine which hotels/motels are accessible and to reserve them. Thus,
17 there is a legal mandate to provide a certain level of information to disabled
18 travelers.

19 10. But despite the rules and regulations regarding reservation procedures,
20 a 2019 industry article noted that: “the hospitality sector has largely
21 overlooked the importance of promoting accessible features to travelers.”

22 11. These issues are of paramount important. Persons with severe
23 disabilities have modified their own residences to accommodate their unique
24 needs and to ameliorate their physical limitations. But persons with disabilities
25 are never more vulnerable than when leaving their own residences and having
26 to travel and stay at unknown places of lodging. They must be able to ascertain
27 whether those places work for them.
28

FACTUAL ALLEGATIONS:

12. Plaintiff planned on making a trip in December of 2020 to the Sacramento, California, area.

13. He chose the Roy Inn & Suites – Sacramento Midtown, 1319 30th St., Sacramento, California, because this hotel was at a desirable price and location.

14. Plaintiff needs an accessible guestroom. He needs clearance around beds, he needs accessible restroom facilities including accessible sinks, accessible tubs or showers and accessible toilets. He needs sufficient maneuvering clearance in and around the guestroom. He needs accessories to be located within an accessible reach range. In short, he benefits from and needs compliant accessible guestroom features.

15. Plaintiff went to the Roy Inn & Suites – Sacramento Midtown website at <http://www.royinnandsuites.com/> on October 19, 2020.

16. Plaintiff found that there was no information about the accessibility of the rooms. There was a tab labeled “Facilities for disabled guests”, however, there was no specific information provided regarding accessibility features provided for the disabled guests.

17. The defendant’s reservation system failed to identify and describe the accessible features in the guestroom chosen by the plaintiff in enough detail to reasonably permit him to assess independently whether the particular guestroom met his accessibility needs. The photos that accompany those rooms do not show any accessible features.

18. This lack of information created difficulty for the plaintiff and the idea of trying to book this room -- essentially ignorant about its accessibility -- caused discomfort for the Plaintiff.

19. Plaintiff would like to patronize this hotel but is deterred from doing so because of the lack of detailed information through the hotel’s reservation

1 system. Plaintiff not only travels frequently but is always on the lookout for
2 businesses that violate the law and discriminate against him and other persons
3 with disabilities, intending to have them comply with the law and pay statutory
4 penalties.

5 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**

6 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
7 Defendants.) (42 U.S.C. section 12101, et seq.)

8 20. Plaintiff re-pleads and incorporates by reference, as if fully set forth
9 again herein, the allegations contained in all prior paragraphs of this
10 complaint.

11 21. Under the ADA, it is an act of discrimination to fail to make reasonable
12 modifications in policies, practices, or procedures when such modifications
13 are necessary to afford goods, services, facilities, privileges advantages or
14 accommodations to person with disabilities unless the entity can demonstrate
15 that taking such steps would fundamentally alter the nature of the those goods,
16 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §
17 12182(B)(2)(A)(ii).

18 22. Specifically, with respect to reservations by places of lodging, a
19 defendant must ensure that its reservation system, including reservations
20 made by “any means,” including by third parties, shall:

- 21 a. Ensure that individuals with disabilities can make
22 reservations for accessible guest rooms during the same
23 hours and in the same manner as individuals who do not
24 need accessible rooms;
- 25 b. Identify and describe accessible features in the hotels and
26 guest rooms offered through its reservations service in
27 enough detail to reasonably permit individuals with
28 disabilities to assess independently whether a given hotel

1 or guest room meets his or her accessibility needs; and
2 c. Reserve, upon request, accessible guest rooms or specific
3 types of guest rooms and ensure that the guest rooms
4 requested are blocked and removed from all reservations
5 systems.

6 *See* 28 C.F.R. § 36.302(e).

7 23. Here, the defendant failed to modify its reservation policies and
8 procedures to ensure that it identified and described accessible features in the
9 hotels and guest rooms in enough detail to reasonably permit individuals with
10 disabilities to assess independently whether a given hotel or guest room meets
11 his or her accessibility needs and failed to ensure that individuals with
12 disabilities can make reservations for accessible guest rooms during the same
13 hours and in the same manner as individuals who do not need accessible
14 rooms.

15 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
16 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
17 Code § 51-53.)

18 24. Plaintiff repleads and incorporates by reference, as if fully set forth
19 again herein, the allegations contained in all prior paragraphs of this
20 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,
21 that persons with disabilities are entitled to full and equal accommodations,
22 advantages, facilities, privileges, or services in all business establishment of
23 every kind whatsoever within the jurisdiction of the State of California. Cal.
24 Civ. Code §51(b).

25 25. The Unruh Act provides that a violation of the ADA is a violation of the
26 Unruh Act. Cal. Civ. Code, § 51(f).

27 26. Defendants’ acts and omissions, as herein alleged, have violated the
28 Unruh Act by, inter alia, failing to comply with the ADA with respect to its

1 reservation policies and practices.

2 27. Because the violation of the Unruh Civil Rights Act resulted in difficulty
3 and discomfort for the plaintiff, the defendants are also each responsible for
4 statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

5 **PRAYER:**

6 Wherefore, Plaintiff prays that this Court award damages and provide
7 relief as follows:

8 1. For injunctive relief, compelling Defendants to comply with the
9 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
10 plaintiff is not invoking section 55 of the California Civil Code and is not
11 seeking injunctive relief under the Disabled Persons Act at all.

12 2. Damages under the Unruh Civil Rights Act, which provides for actual
13 damages and a statutory minimum of \$4,000 for each offense.

14 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
15 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

16
17
18 Dated: October 27, 2020

CENTER FOR DISABILITY ACCESS

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22 By: _____
23 Russell Handy, Esq.
24 Attorneys for Plaintiff
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